Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
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2000 Biennial Regulatory Review--Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 2 (and Phase 3)	)	CC Docket No. 00-199
	)	
Local Competition and Broadband Reporting	)	CC Docket No. 99-301

PHASE 3 FURTHER COMMENTS OF THE PUBLIC SERVICE COMMISSION OF WISCONSIN

I. Introduction

In 1999, the Federal Communications Commission (FCC) initiated a comprehensive review of its accounting rules and the related reporting requirements for incumbent local exchange carriers (ILECs) to keep pace with changing conditions in the competitive telecommunications industry. Over time, this has evolved into a three phase proceeding. The FCC has already taken comments in the three phases and has issued earlier orders to modify accounting and reporting. In its Further Notice of Proposed Rulemaking (FNPRM) adopted October 11, 2001, and released November 5, 2001, the FCC seeks to refresh the record in Phase 3 and has requested further comments on a broader examination of the road map for accounting and reporting deregulation.

II. Comments of the Wisconsin Commission

The Public Service Commission of Wisconsin (Wisconsin Commission) respectfully submits the following comments on the accounting and reporting issues discussed in the FNPRM requesting refreshed comments in Phase 3. The Wisconsin Commission has previously filed comments in Phases 1, 2, and 3 of this proceeding.

Broader Examination of the Road Map for Accounting and Reporting Deregulation

The FNPRM states that unless the FCC can identify a specific federal need for a particular account, the FCC is not justified in maintaining the requirement for that account in the federal Uniform System of Accounts (USOA). The FCC proposes to provide a three-year time period for state regulatory entities to establish mechanisms for gathering state information and to then eliminate accounts the FCC views as being state-use specific.

The Wisconsin Commission has concerns on both the process and substance of this proposal. As evidenced by the multi-year effort this accounting reform proceeding has already taken at the federal level, the overhaul of regulatory accounting is a major undertaking. The FCC has already taken several rounds of comments and this Commission, like many others, has filed comments on each phase. Now the FCC seeks to refresh the record on Phase 3 and is suggesting that without a detailed analysis of the USOA by the states, some accounts will simply be eliminated. The National Association of Regulatory Utility Commissioners (NARUC) has expressed its concerns that the comment time periods that the FCC has provided to the states are not sufficient. Although for a proceeding that started in 1999, it is difficult to call the FCC pace abrupt, the proceeding has reached a point where to move now too hastily to remove long-standing accounts and requirements seems unnecessary and ill advised. It is not possible at this time for this Commission, and we presume most if not all others, to put aside all other important activities and conduct an immediate and full evaluation of the USOA.

Over many years, this Commission, like others, has made efforts to minimize differences between state-required accounting and the federal USOA. Although this Commission retains the ability to adopt accounting mandates different than the FCC, and has done so in the past,[1] the fact is that the underlying federal USOA is the very broad base on which the states' accounting requirements are built. To eliminate that base would not only burden the state commissions but would inexorably lead to an increasing burden on providers, due to multiple and differing state accounting (and reporting) requirements.

In its broader examination of the road map to accounting and reporting deregulation, the FCC should consider the appropriate priority to place on this activity. There is no argument that efficient and non-burdensome accounting is a legitimate, desired goal. However, competition in local markets is not moving at a pace faster than regulators are able to keep up with through logical and appropriate accounting changes. Nor is it credible to argue that the pace of competition is slowed because of existing accounting mandates. There is also no evidence to suggest that the financial health and well-being of ILECs are suffering from these supposed regulatory burdens, especially in comparison to the rest of the telecommunications industry. In Phases 1 and 2 of this proceeding, the FCC has already taken a significant amount of action to address accounting and reporting requirements that were based on the needs of rate base, rate of return regulation.

Additional accounting reform does not need to be a top priority right now. In its Order on Reconsideration released March 8, 2002, the FCC delayed the effective date of the Phase 2 USOA changes to January 1, 2003, and the associated ARMIS reporting changes to April 1, 2004. The FCC and the states cannot carry out their respective mandates without uniform and accurate accounting and reporting information. In evaluating prioritization, the burdens that are falling on state commissions are as great or greater than the burdens the FCC carries. Effort

[1] The Wisconsin Commission will be examining the FCC's Phase 2 changes to the USOA in an upcoming proceeding later this year and deciding whether to adopt all of the FCC's changes or to adopt them with

should not be expended to fine-tune the USOA, at a time when there is a need for the information contained in the USOA. This information is needed for the following purposes:

1. To support tariffed prices, to provide information concerning the financial condition of ILECs, and to serve as an efficient system for both management and federal and state regulators;

2. To address cost issues in various proceedings such as long-term number portability, unbundled network elements, interconnection, pole attachments, and collocation;

3. To ensure non-regulated activities are not subsidized by regulated activities;

4. To ensure proper cost data is available on which to base a system of sufficient universal service support;

5. To implement jurisdictional separations; and

6. To assess the state of the telecommunications network including the extent of deployment of advanced technology.

Identification of how and where data is used for either federal or state purposes for every single account is a massive undertaking. While the Wisconsin Commission supports the streamlining of accounting and reporting requirements to keep pace with the changing conditions in the telecommunications industry, it believes the current rapid push for accounting reform is misguided. The FCC, with significant state support, has already taken considerable action to address remnant accounting regulatory burdens. There is not a pressing need for further accounting reform. At a time when the need for appropriate and complete documentation of financial and operational matters is of great public interest, a major effort to eviscerate the current accounting and reporting standards is not justified or advisable.

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modifications, as it has in past decisions.

Although the Wisconsin Commission does not recommend that the FCC take further steps to modify accounting and reporting at this time, the following are comments on some of the specific issues raised in the FNPRM.

Comments on Specific Sunsetting Proposals

Sunset of 272 Separate Affiliate Requirement. The Wisconsin Commission previously addressed the FCC's proposal to sunset accounting requirements when a Bell Operating Company (BOC) obtains Section 271 authorization in its prior comments for Phase 3, noting that Section 272 requires separate affiliates to maintain books, records, and accounts in the manner prescribed by the FCC. The FCC now inquires whether accounting and reporting requirements should sunset when the 272 affiliate requirement sunsets. Concerns regarding cross subsidization, as explained below, are not limited to BOCs and are not limited to the provision of interlata services. Concerns regarding cross subsidization may be even more relevant to the development of new markets for advanced services. The sunset of separate 272 affiliate requirements is unrelated to the need for appropriate accounting and reporting requirements.

Pricing Flexibility. As the Wisconsin Commission previously commented, pricing flexibility is generally provided as a company transitions to a competitive marketplace. It is provided at an early stage in the transition to competitive markets. It is not indicative of effective competition. It is the existence of effective competition that should trigger relaxing accounting and reporting requirements.

Achieving Non-Dominant Status. The Wisconsin Commission has not studied the particulars of the evaluation necessary to obtain non-dominant status, to the extent that it is consistent with the existence of effective competition. At the time that this study is performed, it may be appropriate to relax accounting and reporting requirements. However, that is not to say there should be a complete elimination of accounting and reporting requirements in evaluating the unprecedented transition from monopoly regulation to relying on competition in an industry that has significant economies of scale. It is important that a source of uniform national statistics be maintained. Wisconsin Statutes require an equal level of regulation among companies in an industry when effective competition exists.[2] The Wisconsin Commission is now gathering financial information from competitive local exchange carriers (CLECs). It would be appropriate to move toward a convergence in reporting rather than a complete elimination of reporting.

Comments on Specific Accounts

While it is reasonable to further evaluate the system of accounts as competition develops and further reduce accounting requirements, as explained above, now is not an appropriate time for an extensive undertaking in this area. Accordingly, the Wisconsin Commission is not submitting an extensive analysis of all possible accounts and whether any can or should be eliminated at this time or in the near future. The FCC must recognize, however, that eliminating accounts or the entire USOA at a future date simply because the FCC believes it is not required for federal purposes may result in the elimination of the word "uniform" in the USOA. Certainly state commissions have collaborated in the past to develop solutions to regulatory issues; perhaps this may represent another opportunity for such collaboration. The opportunity for further disparity among the system of accounts (and reporting) adopted by various state commissions may be increased, however, if there is no federal USOA. The Wisconsin Commission does not

[2] Wis. Stat. § 196.195(3) provides in pertinent part:

> (a) The level of regulation imposed upon all telecommunications utilities providing the service in that market shall be equal unless the commission finds that the public interest requires that different regulatory requirements be imposed.

support a time-specific sunset of accounting and reporting requirements, but rather a significant reduction or possible elimination based on a finding of effective competition.

The only comments provided at this time address accounts that track federal/state jurisdictional differences, accounts 1500, 4370, and 7910, that the FCC proposed should be eliminated. The FCC should bear in mind that there is supposed to be interplay between the state jurisdiction which is closest to the utilities' service and the federal jurisdiction which has a broader interstate commerce point of view. There is a need to track these federal to state accounting differences within the accounts of the utilities. Accounts are needed to provide a uniform place to account for these differences or multiple different treatments will evolve that are likely to cloud the uniformity that is intended.

ARMIS Reporting Requirements

The FCC requests comments regarding whether ARMIS information (particularly infrastructure data) would be better captured through the *Local Competition and Broadband Data Gathering Program*, rather than in ARMIS.

The Wisconsin Commission has no preference at this time concerning the mechanism for gathering this data. In the event the FCC determines that the infrastructure data is better collected under the *Local Competition and Broadband Data Gathering Program*, the Wisconsin Commission believes that this data should be collected on a mandatory basis from the larger universe of carriers rather than only the price-cap companies. The Wisconsin Commission also supports a requirement that the filers in the *Local Competition and Broadband Data Gathering Program* report information on hybrid fiber-copper loop interface locations and the number of customers served from these locations in addition to the *x*DSL customer terminations associated with hybrid fiber-copper loops and *x*DSL customer terminations associated with non-hybrid loops. This data will provide the Commission with a current status report on the growth of this type of technology for competitive providers within the state and allow comparison to other states.

Collecting the data from a larger universe of carriers provides the Wisconsin Commission the ability to compare and contrast the status of these carriers with the price-cap companies within the state, compare the data with other states and provide continuity in reported data.

The FCC also seeks comment on whether to gather information through the *Local Competition and Broadband Data Gathering Program* on new technologies that indicate how carriers are upgrading the public switched network. The Wisconsin Commission supports this proposal. The ARMIS 43-07 infrastructure report provides the Commission with a state-to-state comparison of data that would otherwise be difficult to obtain. The Wisconsin Commission makes use of certain infrastructure data in Tables I and II of this report dealing with switching and transmission facilities. This information is used to develop infrastructure incentive benchmarks for price regulated telecommunications utilities, and to assess the state of the telecommunications network including the extent of deployment of advanced technology.

Affiliate Transactions

The FCC asked for comments that specifically address whether accounting requirements are necessary for affiliated interest transactions in light of price-cap regulation. It is true that with price-cap regulation the cost to rates relationship has been eliminated so there is limited potential for regulated services to be burdened with non-regulated expenses. However, it is the reverse situation that creates more concern. A carrier may cross subsidize non-regulated operations from regulated operations until there is effective competition. In this transition, price cap regulation does provide, at times, excessive earnings which are the source of funds that can be used to cross subsidize non-regulated activity. The need for cross subsidy regulation will not go away until competition drives earnings to competitive levels and the source of cross subsidy funds is eliminated by market pressures. This is particularly important in the emerging advanced services market. Cross subsidy funds can create the deep pockets that make predatory pricing possible. In particular in Wisconsin, there is a price floor test that is one means of limiting the potential for predatory pricing. That price floor test is based on accounting data. Appropriate affiliate transaction accounting is intended to prevent a string of transactions from hiding the full cost of providing services in order to accurately apply the price floor test.

The FCC inquired about expanding the centralized services exception in which a fair market value test is not required. The Wisconsin Commission has not adopted § 32.27 of the FCC's USOA (due to the Wisconsin Commission's supervisory jurisdiction over ILECs' affiliated interest activities as set forth in Wis. Stat. § 196.52) nor the FCC's centralized services exception. The FCC inquired about setting a dollar limit such as $500,000 for services in addition to asset sales, or alternatively using a percentage of services the centralized service affiliate provides to non-affiliates as the basis for such an exception. Certainly a percentage is better than a flat dollar amount that could completely eliminate fair market value evaluations for some companies. However, the concern is not the percentage of services that a centralized service affiliate provides to non-affiliates, the main potential problem is the percentage of a non-regulated affiliate's potentially subsidized costs, received from the centralized service company, that contributes to the potential for predatory pricing. Thoughtful, careful examination of these requirements is needed; there should not be a rush to eliminate all affiliated transaction accounting requirements.

Ad Hoc Data Requests

The FCC requests comments on whether regulatory needs could be satisfied by making ad hoc data requests on an as-needed basis and relying on other data collection mechanisms such as the *Local Competition and Broadband Data Gathering Program.* The Wisconsin Commission has concerns that this approach will devalue the USOA. The USOA and federal reporting have provided a reliable, readily accessible source of comparable industry data and the FCC has served as an important clearinghouse for this information. Most importantly, ad hoc data requests are not publicly available. It is a difficult and time consuming process for both the requesting party to submit and the FCC to evaluate a request to make information publicly available that the FCC has received through its data request process. ARMIS reporting plays an important role in providing a source of uniformly accounted, comparable information in the areas of both accounting and quality of service to permit the FCC and the states to evaluate the transition to competition.

Continuing Property Records

The Wisconsin Commission suggests a careful evaluation of the Continuing Property Record (CPR) requirements may be worthwhile. The CPR requirements were designed to gather data to closely match depreciation rates to the physical life of utility plant. In the competitive environment, more information is needed on the economic life of plant than the physical life of plant. This may be an area where the benefits of evaluating the requirements could achieve a significant reduction in the burden on utilities. The current requirements may be more than is needed in a competitive environment. However, not even all providers propose a complete elimination of CPR requirements. A reevaluation of CPR requirements is a complex area that requires careful study.

The FCC (and some states) still need to prescribe depreciable lives that are used for a number of regulatory purposes. These include, but are not limited to, the determination of unbundled network element prices, traditional rate of return regulation, and determining non-price cap telecommunications utilities' access rates. In addition, if CPR changes are made, care is needed to maintain information on original cost which is important in determining rates after a sale or acquisition of a territory.

III. Conclusion

The Wisconsin Commission is in agreement with the FCC's basic objectives to reasonably reform accounting and reporting requirements and efforts to streamline regulation to keep pace with changing market conditions. However, the pace and drastic reductions called for by the FCC are areas on which the FCC and the Wisconsin Commission disagree. The FCC has already reduced the number of Class A accounts by 45 percent and made numerous changes to simplify the data that is required to support that accounting. The Wisconsin Commission believes that further work on accounting and reporting reform is not appropriate until there is evidence that effective competition in local markets is developing. Until such time, the Wisconsin Commission believes there are more pressing priorities that will have a greater impact in the development of competition and that the changes the FCC has already made have been sufficient to keep pace with the current level of competition.

Dated at Madison, Wisconsin __April 4, 2002________________________.

By the Commission:

/s/ Lynda L. Dorr

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Lynda L. Dorr
Secretary to the Commission

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